



State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900

# Application for Instream Lease

A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

### Pursuant to ORS 537.348(2) and OAR 690-077

Optional Identification by Lessor/Lessee: Sevenmile Creek Ranch WRP  
Lease Application Number (assigned by WRD): IL-817

This Lease is between:

**Lessor #1:**

Name Sevenmile Creek Ranch / John von Schlegell  
Mailing address c/o Endeavour Capital, 920 SW Sixth Avenue, Suite 1400  
City, State, Zip Code Portland, OR 97204  
Telephone number (503) 223-2721  
Email address jevs@endeavourcapital.com

**Lessor #2, 3, etc.**

The water right to be leased is located in KLAMATH County.

**Lessee (if different than Oregon Water Resources Department):**

Name Klamath Basin Rangeland Trust  
Mailing address 340 A street, #302  
City, State, Zip Code Ashland, OR 97520  
Telephone number 541-488-4822  
Email address shannon.peterson@kbrt.org

**Trustee:**

Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266  
(503) 986-0900

### ~I~ Water Right Holder and Water Right Information

- 1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 33 S, Range 6 W, Section NE1/4 35, W1/2 of NW1/4 36 and Tax Lot number \_\_\_\_\_. If the water right appurtenant to these lands is also appurtenant to lands owned by others who are not included in this application, then Attachment 1 (tax lot map), needs to be included.

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1.2 Lessor #2 is the (Check one):

Not applicable

Official representative of \_\_\_\_\_, the irrigation district which conveys water to the subject water rights.

Another party with an interest in the subject water rights representing \_\_\_\_\_.

1.3 For the water right(s) being leased, list all water rights appurtenant to the same lands. Indicate if there are any supplemental or overlying rights.

Certificate No. 10927, 10928

1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes  No

**1.5 Water Rights Proposed to be Leased Instream.**

The first right to be leased identified in Section 1.3 is further described as follows:

Certificate No.: 10927

Priority date: 1900 Type of use: irrigation

Legal Season of Use: 04/01 - 10/01

Is the entire water right certificate being leased?  Yes  No

If no, list the acres of the subject water right by legal description of township, range, section, and  $\frac{1}{4}$   $\frac{1}{4}$  which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T \_\_\_\_, R \_\_\_\_, Section \_\_,  $\frac{1}{4}$   $\frac{1}{4}$  - \_\_\_\_ acres to be leased

Enter additional places of use here, using format above:

\_\_\_\_\_

Page \_\_\_\_ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: 80

Acre-feet of storage, if applicable: -

Maximum rate associated with the right to be leased (cfs): 1/50th cfs 04/01-07/19, 1/80th cfs 07/20-10/01  
(Use additional lines if there is more than one rate associated with the water right.)

Maximum duty associated with the right to be leased (ac-ft): 400 (5acft/ac)

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: \_\_\_\_\_

If you need to enter another leased right, please use the additional water rights form.

1.6 **Validity of rights.** Lessor(s) attests (mark one) that:

the water has been used over the past five years according to the terms and conditions of the water right certificate or as an instream water right or

the water has not been used over the past five years according to the terms and conditions of the water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)(  )(include necessary supporting documentation as Attachment 3).

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**~II~ Instream Water Right Information**

**2.1 Public use.** This lease will increase streamflows that will benefit:

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat
- Pollution abatement
- Recreation and scenic attraction

**2.2 Instream use created by lease.** The instream use to be created is described as follows:

Sevemile Cree**River**  
Tributary to AgencyLake in the Klamath Basin.

Describe the point of diversion (POD) and any associated reach(es) of the instream use being created. If possible list the reach by river mile. If no reach is identified, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD. (If more than one POD is listed on the certificate, then the POD and any associated reach(es) must be identified): POD to Agency Lake

Maximum volume in acre-feet: 400 (5ac)

Rate in cfs: 1/50cfs per acre (1.6cfs) 04/01-07/19, 1/80 cfs per acre (0.013cfs) 7/20-10/01

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

**Conditions to prevent injury, if any:**

- None
- The instream flow will be allocated on a daily average basis up to the described rate from \_\_\_\_\_ through \_\_\_\_\_.
- Other (describe): \_\_\_\_\_

If you need to enter more instream uses, please use the additional water rights form.

**2.3 Term of lease.** This lease shall terminate on October 1, 2007

**2.4 Flow protection.** The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see Section 2.2). As part of regulation activities the watermaster or a designee has access to the point of diversion and place of use for the water rights involved in this lease. No party is required to continuously measure the flow of the waterway described in Section 2.2.

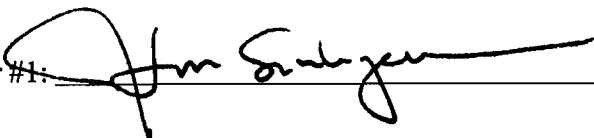
**~III~ Other Information**

**3.1 Accuracy.** The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified or terminated. The lease only exercises the water rights being leased, for the term of the lease. It shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.

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- 3.2 **Lease.** Lessor(s) and Lessee(s) agree to lease the water rights listed in Section(s) 1.5 for instream use for the term of this lease through Lessee to the Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077.
- 3.3 **Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be required, and a prior lease shall not set a precedent for the amount of water to be leased or transferred instream.
- 3.4 **Suspension of original use.** During the period of the lease, the water right holder agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights.
- 3.5 **Termination provision.**
- For multiyear leases, the Lessor(s) shall have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur. The Department may also require:
    - Written notice to the Department with original signatures;
    - Consent by all parties to the lease; and/or
    - Written notice to the Watermaster's office.
  - For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.
- 3.6 **Modification to prevent injury.** Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.
- 3.7 **Fees.** Pursuant to ORS 536.050, the following fee is included:
- \$200 for an application with four or more landowners or four or more water rights.
  - \$100 for all other applications.

Lessor #1:  Date: 4-9-2007

For additional Lessors, type in space for signature and date

\_\_\_\_\_

Lessee:  Date: 03/30/07

FOR KLAMATH BASIN RANGELAND TRUST

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STATE OF OREGON

COUNTY OF KLAMATH

CERTIFICATE OF WATER RIGHT

This is to Certify, That LEONARD J. WOODRUFF

of Fort Klamath, State of Oregon, has a right to the use of the waters of Seven Mile Creek, for the purpose of Irrigation of 80 acres,

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Klamath County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 12, at page 289; that the priority of the right thereby confirmed dates from 1900;

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1/50th of one cubic foot per second per acre irrigated prior to July 20th and 1/80th of one cubic foot per second per acre irrigated thereafter, and shall not exceed 5 acre feet per acre during irrigation season from April 1st to October 1st of each year. A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purposes, the place where such water is put to beneficial use), is as follows:

40.0 acres in NW 1/4 }  
40.0 acres in SW 1/4 } 80 acres on  
Section 36, } Seven Mile Creek Ranch  
T. 55 S., R. 6 East, W.M. WRP

AND said right shall be subject to all other conditions and limitations contained in said Decree. The right to the use of the water for irrigation purposes is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer,  
affixed this 1st day  
of September, 1934.

CHAS. E. STRICKLIN  
State Engineer.

Recorded in State Record of Water Right Certificates, Volume 10, page 10,927

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State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900

Additional Water Right Form
Standard Application for
Instream Lease

A summary of review criteria and procedures that are generally applicable to these applications is available at
www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

~I~ Water Right Holder and Water Right Information

Section 1.5 continued from Standard Application for Instream Lease.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 10928

Priority date: 1888, 1890, 1900 Type of use: irrigation

Legal Season of Use (if not listed on the certificate): 04/01 - 10/01

Is the entire water right certificate being leased? [X] Yes [ ] No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4, which will be dried up as part of this lease. Include a map (Attachment 3) showing the lands that will not receive water.

Place of use: T N, R W, Section, 1/4 1/4 - acres to be leased

Enter additional places of use here, using format above:

Page (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 140

Acre-feet of storage, if applicable:

Rate associated with leased rights (cfs): 1/50th cfs/ac 04/01-07/19, 1/80th cfs/ac 07/20-10/01

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): 700 (5 acft/ac)

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any:

~II~ Instream Water Right Information

Section 2.2 continued from Standard Application for Short-Term Instream Lease.

Instream use created by lease. The instream use to be created is described as follows:

Sevenmile Creek River

Tributary to Agency Lake in the Klamath Basin.

Describe the point of diversion (POD) and any associated reach(es) of the instream use being created. If possible list the reach by river mile. If no reach is identified, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD. (If more than one POD is listed on the certificate, then the POD and any associated reach(es) must be identified):

POD to Agency Lake

Maximum volume in acre-feet: 700

Rate in cfs: 2.2 cfs 04/01-07/19, 1.5 cfs 07/20-10/0

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

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**Conditions to prevent injury, if any:**

None

The instream flow will be allocated on a daily average basis up to the described rate from \_\_\_\_\_ through \_\_\_\_\_.

Other (describe): \_\_\_\_\_

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**WATER RESOURCES DEPT  
SALEM, OREGON**

STATE OF OREGON

COUNTY OF KLAMATH

CERTIFICATE OF WATER RIGHT

This is to Certify, That LEONARD J. WOODRUFF

of Fort Klamath, State of Oregon, has a right to the use of the waters of Springs, Crane Creek, and Seven Mile Creek, for the purpose of Irrigation of 299.3 acres,

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Klamath County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 12, at page 269; that the priority of the right thereby confirmed dates from 1886, 1890 and 1900. (See note below)

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1/50th of one cubic foot per second per acre irrigated prior to July 20th and 1/80th of one cubic foot per second per acre irrigated thereafter, and shall not exceed 5 acre feet per acre during irrigation season from April 1st to October 1st of each year.

A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purposes, the place where such water is put to beneficial use), is as follows:

40.0 acres in NE 1/4 NE 1/4
25.0 acres in NW 1/4 NE 1/4
35.0 acres in SW 1/4 NE 1/4
40.0 acres in SE 1/4 NE 1/4
40.0 acres in NE 1/4 SE 1/4
39.3 acres in NW 1/4 SE 1/4
40.0 acres in SW 1/4 SE 1/4
40.0 acres in SE 1/4 SE 1/4
Section 35,
T. 33 S., R. 6 East, W.M.
140 acres on Sevenmile Creek Ranch WKP

NOTE: Of the above acreage, Claimant's right to water from Seven Mile Creek is limited as follows: 40 acres in NE 1/4 SE 1/4, 20 acres in SE 1/4 NE 1/4, 25 acres in SE 1/4 SE 1/4, SECTION 35, Twp. 33 S., R. 6 E., W.M. with priority of 1890; 40 acres in NE 1/4 NE 1/4, 20 acres in SE 1/4 NE 1/4, SECTION 35, T. 33 S., R. 6 E., W. M. with priority of 1900. The remainder of the lands to be irrigated from the designated sources.

AND said right shall be subject to all other conditions and limitations contained in said Decree.

The right to the use of the water for irrigation purposes is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer,

affixed this 1st day

of September, 1934.

CHAS. E. STRICKLIN

State Engineer

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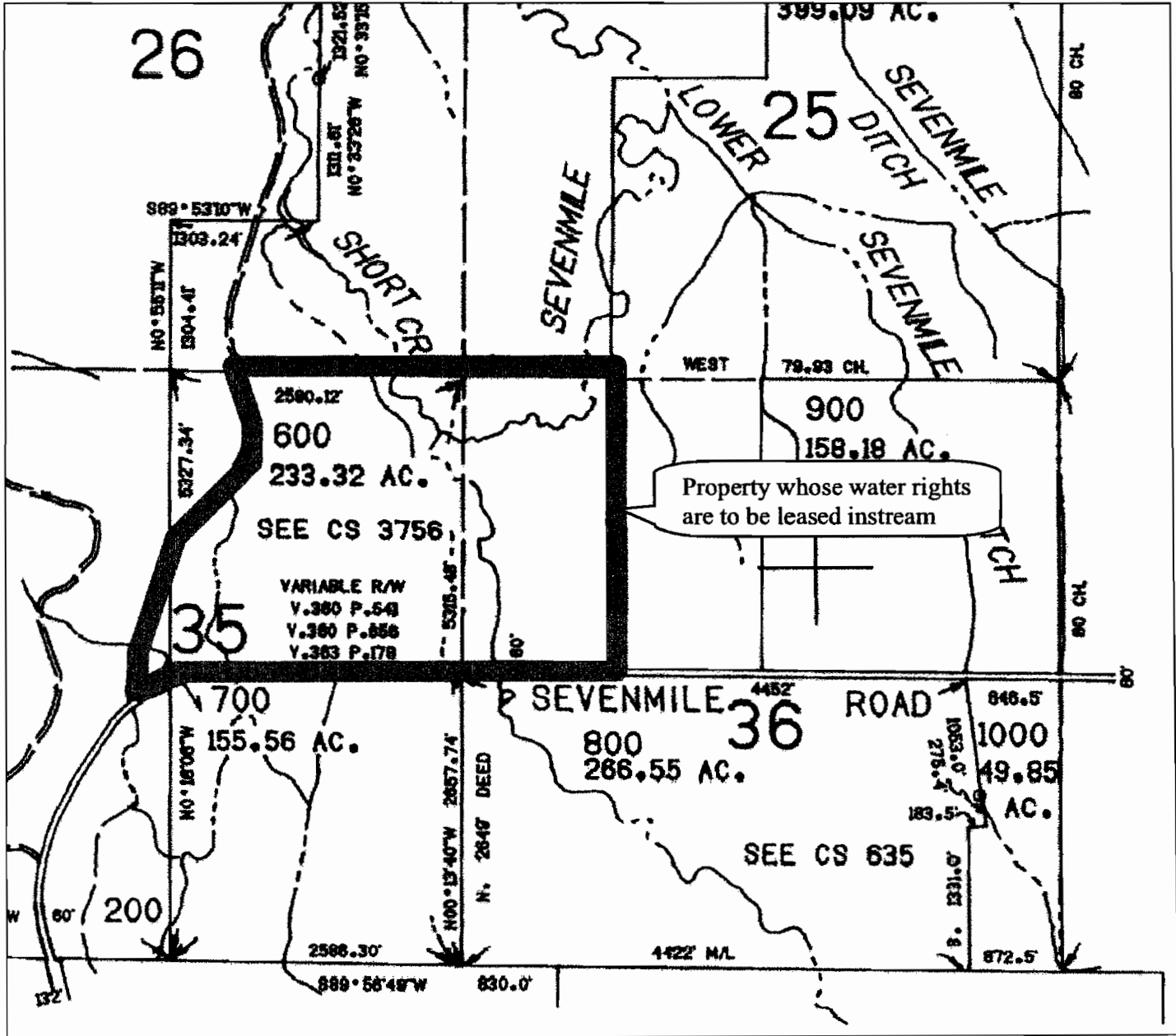
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Recorded in State Record of Water Right Certificates, Volume 10, page 10,928

WATER RESOURCES DEPT SALEM, OREGON



**Instream Lease Application – Sevenmile Creek Ranch WRP**  
 T33 S, R6 E  
 NE 1/4 of Section 35  
 W1/2 of NW 1/4 of Section 36



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